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United Nations

Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996

Eighth session (28 June-2 July 2004)

General Assembly
Official Records
Fifty-ninth Session
Supplement No. 37 (A/59/37)

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Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

[2 July 2004]

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Chapter I
Introduction

1. The eighth session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 was convened in accordance with paragraphs 15 and 16 of General Assembly resolution 58/81 of 9 December 2003. The Committee met at Headquarters from 28 June to 2 July 2004.

2. In accordance with paragraph 9 of General Assembly resolution 51/210, the Ad Hoc Committee was open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency.

3. The Chairman of the Ad Hoc Committee, Rohan Perera (Sri Lanka), opened the session.

4. At the 30th meeting of the Committee, on 28 June 2004, it was agreed that the membership of the Bureau would remain the same as at the previous session. The Bureau was thus constituted as follows:

Chairman:
Rohan Perera (Sri Lanka)

Vice-Chairmen:
Carlos Fernando Díaz Paniagua (Costa Rica)
Albert Hoffmann (South Africa)
Michael Bliss (Australia)

Rapporteur:
Lublin Dilja (Albania)

5. Václav Mikulka, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Ad Hoc Committee, assisted by Anne Fosty (Deputy Secretary). The Codification Division of the Office of Legal Affairs provided the substantive services for the Ad Hoc Committee.

6. At the same meeting, the Ad Hoc Committee adopted the following agenda (A/AC.252/L.12):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the relevant questions referred to in paragraphs 15 and 16 of General Assembly resolution 58/81 of 9 December 2003, in accordance with the mandate of the Ad Hoc Committee as set out in that resolution.
6. Adoption of the report.

7. The Ad Hoc Committee had before it the report on its seventh session[1] as well as the report on its sixth session[2] containing, inter alia, a discussion paper prepared

[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 37* (A/58/37).
[2] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37 and Corr.1)

by the Bureau on the preamble and article 1 of the draft comprehensive convention on international terrorism; a list of proposals made during the informal consultations on the preamble and article 1 appended to the report of the coordinator on the results of the informal consultations in the Ad Hoc Committee; the informal texts of articles 2 and 2 bis, prepared by the coordinator; the texts of articles 3 to 17 bis and 20 to 27 prepared by the Friends of the Chairman; two texts of article 18, one circulated by the coordinator for discussion and the other proposed by the States members of the Organization of the Islamic Conference; and the report of the Working Group of the Sixth Committee established at the fifty-eighth session of the General Assembly (A/C.6/58/L.10) containing the lists of written amendments and proposals submitted by delegations in connection with the elaboration of a draft comprehensive convention (ibid., annex I, A, B and C). The Committee also had before it the revised text of the draft international convention for the suppression of acts of nuclear terrorism, proposed by the Friends of the Chairman and contained in the report of the Working Group of the Sixth Committee established at the fifty-third session of the General Assembly (A/C.6/53/L.4, annex I), written amendments and proposals submitted by delegations in relation to that instrument,[3] as well as the text of the draft international convention for the suppression of nuclear terrorism prepared, for discussion, by the Bureau of the Ad Hoc Committee at the current session.[4]

[3] Ibid., annex V.B.

[4] A/AC.252/L.13 and Corr.1.

Chapter II
Proceedings

8. The Ad Hoc Committee held three plenary meetings: the 30th, on 28 June; the 31st, on 1 July; and the 32nd, on 2 July 2004.

9. At the 30th meeting, the Ad Hoc Committee held a general exchange of views on issues within its mandate pursuant to paragraphs 15 and 16 of General Assembly resolution 58/81. An informal summary of those discussions, prepared by the Chairman, is contained in annex I to the present report. The informal summary is intended for reference purposes only and not as a record of the discussions.

10. Also at the 30th meeting, the Ad Hoc Committee adopted its work programme. The Chairman reappointed Vice-Chairman Carlos Fernando Díaz Paniagua (Costa Rica) as the coordinator for the draft comprehensive convention on international terrorism and Vice-Chairman Albert Hoffmann (South Africa) as the coordinator for the draft international convention for the suppression of acts of nuclear terrorism. The Chairman invited interested delegations to approach him on the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. He also informed the Committee that the Bureau had prepared a text of the draft international convention for the suppression of acts of nuclear terrorism[5] for the purpose of facilitating the discussion on the matter, on the understanding that all proposals concerning that convention, as contained in annex II to document A/C.6/53/L.4 and annex V.B to document A/57/37, continued to remain on the table for further consideration. The Bureau text incorporated, in paragraph 4 of article 4, the proposal submitted by Mexico, as contained in document A/C.6/56/WG.1/CRP.9. The text is reproduced in annex III to the present report. The Ad Hoc Committee then decided to proceed with discussions in informal consultations of the Committee as a whole.

11. The informal consultations regarding the draft comprehensive convention, coordinated by Mr. Díaz Paniagua, were held on 29 June. The informal consultations on the outstanding issues pertaining to the draft international convention for the suppression of acts of nuclear terrorism, coordinated by Mr. Hoffmann, were held on 30 June. Both coordinators also had informal contacts with interested delegations on 28 and 30 June.

12. At the 31st meeting, the Coordinators presented their oral reports on the results of the informal consultations and informal contacts on the draft conventions. Those reports are contained in annex II to the present report, for reference purposes only and not as a record of the discussions. The Chairman also informed the Ad Hoc Committee that while there had not been any specific proposal regarding the question of convening a high-level conference, some delegations had had informal contacts on that issue. He encouraged delegations to continue to consult informally on the matter, in the light of General Assembly resolution 58/81.

13. At its 32nd meeting, the Ad Hoc Committee adopted the report on its eighth session.

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[5] Ibid.

Chapter III
Recommendation

14. At the 32nd meeting, the Ad Hoc Committee, bearing in mind General Assembly resolution 58/81, decided to recommend that the Sixth Committee, at the fifty-ninth session of the General Assembly, consider establishing a working group, if appropriate, to continue the elaboration of a draft comprehensive convention on international terrorism and a draft international convention for the suppression of acts of nuclear terrorism, and keeping on its agenda the question of convening a high-level conference, under the auspices of the United Nations, to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

Annex I

Informal summary, prepared by the Chairman, of the general discussion at the plenary meeting held on 28 June 2004

1. Delegations reiterated their unequivocal condemnation of terrorism in all its forms and manifestations as reprehensible, criminal and unjustifiable. They stressed that terrorism continued to pose a serious threat to national and international security, to peaceful relations between States and to the harmonious functioning of democratic institutions worldwide. It was observed that in the fight against terrorism the United Nations should play a central role, with the General Assembly and the Security Council acting in unison and complementing and strengthening each other's efforts. Given the global representative character of the General Assembly, several delegations highlighted its primary role in the fight against terrorism and, in particular, in elaborating counter-terrorism instruments through the Ad Hoc Committee. The need for a sustained and comprehensive involvement and collaboration of all Member States of the Organization was also stressed.

2. Several delegations stressed that international cooperation was indispensable in combating terrorism. However, such efforts must be undertaken with full respect for the rule of law and all human rights and fundamental freedoms as defined in the relevant international instruments and, where applicable, international humanitarian law. The view was also expressed that terrorism should not be linked to any particular religion and greater efforts ought to be made to foster intercultural understanding and cooperation among nations.

3. Some delegations welcomed the recent far-reaching measures to refine and improve the working methods of both the Security Council Counter-Terrorism Committee and the Security Council Committee established pursuant to its resolution 1267 (1999). Delegations emphasized the importance of the universal and full implementation of Security Council resolution 1373 (2001) and other counter-terrorism related Security Council resolutions.

4. It was also emphasized that regional and subregional organizations and other United Nations bodies, including the United Nations Office on Drugs and Crime with its Terrorism Prevention Branch, were playing a critical role in enhancing the effectiveness of global action against terrorism. The importance of the continued provision of technical assistance to requesting Member States was underlined.

5. Several delegations referred to the established legal framework in the field of counter-terrorism and characterized the 12 global conventions and protocols related to the prevention and suppression of international terrorism as being of critical importance. They urged States that had not yet done so to become parties to those instruments as soon as possible and in particular to the 1997 International Convention for the Suppression of Terrorist Bombings and the 1999 International Convention for the Suppression of the Financing of Terrorism. Recent ratifications of the counter-terrorism instruments by certain States were also mentioned.

6. Support was voiced for the Ad Hoc Committee's work on the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism. The view was expressed that while the outstanding issues were complex and had some political dimensions,

the adoption of the conventions by the General Assembly would reconfirm respect for the rule of law in international relations. Some delegations noted that the draft conventions usefully contained various provisions designed to ensure due process, respect for human rights, the international rights of refugees and the principle of non-refoulement in combating terrorism.

7. Several delegations, while voicing appreciation for the results achieved by the Ad Hoc Committee, expressed their disappointment regarding the lack of progress during the past few sessions, due to divergent views on a number of important issues. It was suggested that the goal of improving the legal and law enforcement tools available in the fight against terrorism would be best served by making a realistic assessment of the progress achieved. The view was expressed that an unhelpful linkage was being made between the conclusion of the comprehensive convention and the nuclear terrorism convention. It was therefore suggested that each convention be dealt with separately.

8. Some delegations emphasized the importance of not losing sight of the moral duty to address the legitimate grievances caused by despair, resentment, ignorance and poverty. The view was also expressed that the elimination of the root causes of terrorism required the establishment of international relations based on sovereign equality, multilateralism and justice, the eradication of exploitation, oppression and social inequality, and the promotion of sustainable development.

9. A point was made against the unilateral practices of certain States which were considered contrary to the norms of international law and to the purposes and principles of the Charter of the United Nations. A concern was also expressed over the overt perpetration of acts of State terrorism and an objection was voiced against listing States as sponsors of international terrorism based on domestic policies of certain countries. Conversely, efforts to inject bilateral political issues into the discussions of the Ad Hoc Committee were regretted.

10. Several delegations expressed the view that the convening of a high-level conference under the auspices of the United Nations would serve the purpose of galvanizing collective international effort in combating terrorism, based on a broad consensus at the highest possible level.

11. A proposal was voiced that an office of a high commissioner of the United Nations against terrorism be established in order to achieve better coordination among United Nations bodies with competence in areas involving terrorism. Such an office would be tasked to provide technical assistance to Member States in combating terrorism; provide technical information and carry out the relevant mandates from the Security Council, the General Assembly and the Economic and Social Council; promote coordination and cooperation among various Member States; analyse various reports submitted by States on terrorism; follow up on compliance with various international legal instruments, including General Assembly and Security Council resolutions against international terrorism; prepare various United Nations reports and publications on terrorism; and promote respect for human rights in the course of combating terrorism. The proposed office should take up the mandates and resources related to anti-terrorism activities currently allocated to the Security Council Counter-Terrorism Committee, the Security Council Committee established pursuant to its resolution 1267 (1999), the Global Programme against Terrorism of the United Nations Office on Drugs and Crime, the Office of Legal Affairs, and the Office of the High Commissioner for Human

Rights. It was also observed that setting up this new body would necessarily require joint action by the General Assembly and the Security Council.

12. Some delegations referred to the adoption, at the end of March, of a European Union Declaration on Combating Terrorism, pursuant to which a Counter-Terrorism Coordinator had been appointed. Other delegations recalled the declaration dated 30 September 2003 endorsed by the Organization of the Islamic Conference containing a proposal to elaborate by consensus an international counter-terrorism code of conduct. Member States of the United Nations and international organizations were urged to support the latter initiative and to contribute to its realization when it was tabled before the General Assembly.

13. Several delegations referred to specific heinous acts of terrorism worldwide and in their countries.

A. Elaboration of a draft comprehensive convention on international terrorism

14. Support was expressed for the early conclusion by consensus of a comprehensive convention on international terrorism. The point was made that the review of the outstanding issues during the previous meeting of the Working Group of the Sixth Committee and the seventh session of the Ad Hoc Committee had been helpful in identifying areas that required further efforts. In this context, it was observed that the negotiations on the draft comprehensive convention were almost completed and delegations were urged to show flexibility and compromise with a view to resolving the remaining outstanding issues, in particular in relation to draft articles 2 (bis) and 18. Several delegations expressed their readiness and commitment to support every effort to complete the drafting of the convention as soon as possible.

15. Several delegations stressed the importance of arriving at a clear and universally agreed definition of terrorism. Some delegations reiterated the view that the comprehensive convention should contain a definition of terrorism clearly distinguishing it from the legitimate struggle of peoples against foreign occupation in accordance with the Charter of the United Nations. It was also stressed that the Charter of the United Nations and subsequent practices of the main organs of the Organization confirmed the legally binding character of the right to self-determination. The point was also made that the definition should include State terrorism.

16. Other delegations were of the view that these issues did not need to be specifically addressed. According to them, a definition of terrorism should reaffirm the resolve of the international community that all forms and manifestations of terrorist acts, wherever and by whomever committed, could never be justified. The point was made that the exercise of the legitimate rights of States, peoples and individuals under international law should be excluded from the scope of the convention to the extent that the exercise of such rights did not target civilians or terrorize them.

17. Furthermore, some delegations supported a broad scope of application of the convention in view of the ever-changing methods and manifestations of terrorism. In this connection, a preference was expressed for an operational definition of terrorism. The view was also expressed that terrorism was to be defined with reference to the act and its consequences, and not by a description of the

perpetrators of the act. It was also pointed out that a legal definition of terrorist acts should serve as a standard to measure compliance by States with their obligations under international humanitarian law.

18. It was observed that the comprehensive convention should be regarded as a law enforcement instrument and, therefore, it would constitute an important tool in the fight against terrorism, strengthening and complementing the existing legal framework. It was also pointed out that the convention should not modify the existing international law regime, including the Charter of the United Nations and international humanitarian law instruments. Some delegations also stressed that the *acquis* of the existing 12 sectoral counter-terrorism conventions and protocols should remain intact.

19. It was pointed out that article 18 of the draft comprehensive convention remained a key outstanding issue. In this regard, some delegations supported the text of this article suggested by the coordinator, while other delegations supported the text proposed by the Organization of the Islamic Conference.[a]

20. Furthermore, the point was made that activities by the military forces of a State that were not covered by humanitarian law must not be excluded from the scope of the Convention. In addition, the view was expressed that all acts of the military forces of a State should be covered by the provisions of the comprehensive convention, in particular if such acts were not undertaken in accordance with the provisions of the Charter of the United Nations and other norms of international law. On the other hand, the view was also expressed that acts of the military forces of a State fell outside the scope of the convention.

B. Elaboration of a draft international convention for the suppression of acts of nuclear terrorism

21. The view was expressed that while the most effective way of preventing acts of nuclear terrorism lay in the total elimination of nuclear weapons, the early adoption by consensus of an international convention for the suppression of acts of nuclear terrorism would be a positive step towards eliminating that threat. Concern was also voiced over the possible acquisition by terrorists of weapons of mass destruction, especially nuclear weapons, which posed a real threat to peace and international security.

22. Some delegations stressed that the nuclear terrorism convention was essentially completed and that the only outstanding issue remained the scope of its coverage. In this regard, several delegations supported the proposal made by the delegation of Mexico concerning draft article 4. They characterized the proposed text as a creative and constructive solution to the current impasse in the negotiations. On the other hand, while appreciating the attempt by the delegation of Mexico to find a compromise solution, some other delegations indicated that the proposal did not address the other concerns they had regarding the exemption of armed forces from the scope of the convention.

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[a] For the texts, see *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37 and Corr.1), annex IV.

C. Question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations

23. Some delegations supported the idea of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations and, in particular, to define international terrorism, as differentiated from the right to self-determination. Other delegations voiced their willingness to discuss the convening of a high-level conference upon conclusion of the work on the comprehensive convention, provided that the conference would lead to a strengthening of international cooperation in combating the scourge of international terrorism.

Annex II

Reports of the coordinators on the results of the informal consultations

A. Draft comprehensive convention on international terrorism

1. On 29 June 2004, I conducted informal consultations in my capacity as coordinator for the draft comprehensive convention on international terrorism. These consultations were open to all delegations. I also held bilateral contacts with some delegations on 28 and 30 June 2004. The consultations focused mainly on article 18 of the draft convention. Comments were also made on article 2 *bis*. During the bilateral contacts, some delegations alluded to some other articles of the draft convention.

2. The basic texts of reference in the consultations were: first, the two texts relating to article 18, one circulated by the former coordinator and the other proposed by member States of the Organization of the Islamic Conference (OIC), contained in annex IV to the 2002 report of the Ad Hoc Committee;[a] and, second, the informal text of article 2 *bis* prepared by the former coordinator, which is contained in annex II to the same report.

Article 18

3. Delegations continue to recognize that article 18 is the critical provision and that broad agreement on it is crucial for the adoption of the comprehensive convention. Some delegations expressed their support for the text circulated by the former coordinator, while some others supported the text proposed by OIC.

4. Views on paragraphs 2 and 3 of article 18 remain divergent. Delegations in favour of the text circulated by the former coordinator noted that paragraph 2 reflected the language and substance of comparable provisions of the 1997 International Convention for the Suppression of Terrorist Bombings, which serves as a precedent for the use of such wording. The terms "armed forces" and "armed conflict" are precisely defined and understood under international humanitarian law. Moreover, it was noted that paragraph 2 was a choice of law provision, which simply pointed to international humanitarian law as the applicable law in respect of activities of armed forces in an armed conflict.

5. Those delegations in favour of the OIC text noted that the proposed language was the outcome of a negotiated process. It was built, by way of amendment, upon earlier proposals. It was also stated that paragraph 2 should be perceived as extending the savings clause contained in paragraph 1, which is identical in both texts, namely that nothing in the draft convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law. To exclude "peoples and individuals" from paragraph 2 would create a lacuna which would leave peoples fighting in the exercise of their right to self-determination or against foreign

[a] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/58/37 and Corr.1).

occupation without the protection that they enjoy under international humanitarian law. From this point of view, paragraph 2 of the OIC language seeks to avoid any ambiguity that might be created by the possible exclusion of "peoples and individuals" and of "foreign occupation" from the text of the paragraph.

6. Moreover, it was noted that the term "parties" employed in the OIC proposal was a term well defined and understood under international humanitarian law. It was a term which had always been applied to groups participating in an armed conflict. The laws, rights and duties of war applied not only to States but also to groups and individuals. In this connection, the Hague Regulations respecting the Laws and Customs of War on Land and the 1949 Geneva Conventions were cited as authority.

7. On the other hand, it was counter-argued that the term "parties" as used in the OIC text was overly broad and vague. While there had been certainty as to the definition of "parties" at the time that the various international humanitarian law instruments had been negotiated, since at that time armed conflict essentially involved States, in contemporary times the situation had changed: the use of the term "parties" could potentially exempt any number of individuals and groups from the scope of the draft convention.

8. The view was also expressed that a civilian who exercised his or her rights under international law and international humanitarian law, such as the right to self-determination, was not a terrorist as long as he or she exercised that right within the limits prescribed by international humanitarian law, in particular by not targeting or terrorizing other civilians. Thus, a civilian who forfeited his or her protection under international humanitarian law should not necessarily be considered as a terrorist under the draft convention.

9. With regard to paragraph 3, some delegations were in favour of the OIC text. They noted that they had initially sought the deletion of the entire paragraph but that they had been persuaded to change their position in view of other texts proposed during the 2000 session of the Working Group of the Sixth Committee (in particular A/C.6/55/WG.1/CRP.28, currently found in document A/C.6/55/L.2, annex III). They stressed that the activities of military forces should be in conformity with international law. Moreover, it was noted that paragraph 3 was concerned with individual responsibility not the responsibility of the State. As such, there did not seem to be any compelling reason to exempt such persons from the scope of application of the draft convention.

10. Those delegations that were in favour of the text circulated by the coordinator observed that it was a choice of law provision based on the one incorporated in the International Convention on the Suppression of Terrorist Bombings. As read in conjunction with paragraph 4, common to both texts, it was clear that paragraph 3 was not intended to grant impunity. It was also observed that the concerns that initially prompted the proposal now contained in the OIC text had been accommodated in paragraph 4, common to both proposals. It was also pointed out that while the reference in the OIC text to "in conformity with" appeared attractive at first glance, it had its own limitations. It did not encompass other activities governed by other rules of international law, thus that provision would render such activities terrorist acts for the purposes of the draft convention.

11. One delegation sought to explore the possibility of bridging the gap by asking whether the term "organized forces" could capture the meaning of the terms "armed

forces", "military forces" and "parties". In reply, it was noted that the term "armed forces" had a specific meaning under the Geneva Conventions and that the term "parties" comprised more than "organized forces".

12. During the bilateral contacts, several delegations suggested bridging the gap by defining the concept of "parties" in the draft convention or by adding a new clause to article 2, paragraph 1, specifying the circumstances in which leading military commanders would commit crimes within the scope of the draft comprehensive convention. The coordinator encouraged those delegations to continue intersessional contacts in order to find creative solutions to the current differences.

Article 2 *bis*

13. Regarding draft article 2 *bis*, some delegations favoured the retention of this article, emphasizing that it would provide legal clarity in the event of a conflict between a sectoral anti-terrorism convention and the comprehensive one. They also considered it important to maintain the *acquis* of the sectoral conventions, since, together with a comprehensive convention, they would form the comprehensive legal framework for combating terrorism. They further observed that the draft comprehensive convention was intended to complement the sectoral anti-terrorism conventions without superseding them.

14. Some other delegations favoured the deletion of draft article 2 *bis* since the relationship between the draft comprehensive convention and sectoral anti-terrorism conventions could be resolved by the law of treaties, as codified in the 1969 Vienna Convention on the Law of Treaties. It was noted that even if the draft comprehensive convention was complementary in character, the law of treaties would still suffice as an interpretative tool. Because of its general character, some delegations preferred that the comprehensive convention should take precedence over other international instruments in that field.

15. In bilateral contacts, the practical and legal effects of deleting or retaining article 2 *bis* were discussed. Some delegations expressed their confidence that that technical issue would be resolved expeditiously as soon as a solution to article 18 was found.

Other issues

16. During the bilateral contacts some delegations expressed an interest in fine-tuning some concrete aspects of draft article 2, paragraph 1, once agreement was reached on the main outstanding issues.

17. Moreover, in the interest of facilitating the prompt adoption of the draft comprehensive convention, the delegation of Guatemala decided to withdraw its proposal for a new article 2 *ter*, which it had submitted during the 2003 session of the Working Group of the Sixth Committee, contained in annex I to the Working Group's report (A/C.6/58/L.10). It nevertheless reserved the right to submit subsequently a revised version of that proposal, which it had prepared and was ready to make available, informally, to interested delegations. The coordinator is grateful to the delegation of Guatemala for its constructive spirit.

Concluding remarks

18. While agreement on the main outstanding issues has not yet been found, the consultations helped to clarify the positions of delegations on the fundamental issues. Article 18 continues to be a key provision on which differences remain. As coordinator, I was encouraged by the growing flexibility shown by delegations during bilateral contacts. I hope that this trend will continue. Finally, the consultations proceeded quite smoothly and in a constructive spirit. I am therefore most thankful to all delegations for engendering such a spirit and for their contributions.

B. Draft international convention for the suppression of acts of nuclear terrorism

1. I wish to report to you and to the Ad Hoc Committee, in my capacity as coordinator, on the informal consultations I held on the draft international convention for the suppression of acts of nuclear terrorism. As coordinator, I held informal consultations open to all delegations on 30 June 2004. I also held informal bilateral consultations with a number of delegations on 28 and 29 June 2004 and made myself available for further informal contacts in the afternoon of 30 June.

2. As in previous sessions of the Ad Hoc Committee and the Working Group of the Sixth Committee, consultations focused on the outstanding issues relating to the draft convention and on ways to resolve the differences that existed. The consultations were held in a cordial and constructive atmosphere. It was emphasized that the threat of use of nuclear material by terrorists was a serious and urgent one and needed to be addressed without delay.

3. The informal consultations focused on the text of the draft international convention for the suppression of acts of nuclear terrorism prepared by the Bureau of the Ad Hoc Committee, as contained in document A/AC.252/L.13 and Corr.1. This document was reproduced from the draft prepared by the Friends of the Chairman of the Working Group of the Sixth Committee, in 1998, with the addition of the Mexican proposal contained in conference room paper A/C.6/56/WG.1/CRP.9. This proposal is reflected, as paragraph 4, in article 4 of the document. It should be emphasized that all other proposals and amendments concerning the draft convention remain on the table for further consideration.

4. There was general agreement that preparation of the draft convention for the suppression of acts of nuclear terrorism was a distinct issue that should be considered on its own merits and that outstanding issues on this draft should be resolved separately from the outstanding issues relating to the draft comprehensive convention.

5. As in the previous sessions, consultations focused on the key outstanding issue, namely, article 4 of the draft convention. There was widespread support for the text contained in L.13 and the addition of paragraph 4 as proposed by Mexico was generally welcomed. The point was made that the draft convention was a law enforcement instrument and that it should not address the question of the legality of the use or threat of use of nuclear weapons. It was argued that that was an issue covered by other conventions and would therefore fall outside the mandate of the Ad Hoc Committee. Several delegations expressed the view that the Mexican proposal

offered a suitable counterbalance to paragraphs 2 and 3 and, thus, constituted a possible compromise in addressing the concerns relating to the exclusion of "armed forces of a State" from the scope of the convention.

6. On the other hand, some delegations reiterated their concern over the current wording of article 4 and stated that the Mexican proposal did not address all concerns previously expressed with regard to paragraphs 2 and 3. In this regard, a proposal was made to delete paragraphs 2 and 3. It was further pointed out that with the deletion of those two paragraphs, paragraph 4 became unnecessary.

7. Other delegations, however, opposed the deletion of those two paragraphs and stated that it was a balanced text which was based on the 1997 International Convention for the Suppression of Terrorist Bombings.

8. In addition to the deletion of paragraphs 2 and 3 from article 4, it was proposed to amend paragraph 4 of that article by adding the words "possession or" after the words "legality of the" in the second line of that paragraph. Some delegations supported the deletion of paragraphs 2 and 3, as well as supporting this additional proposal, while other delegations were in favour of the proposal but wished to retain paragraphs 2 and 3. In that regard, some delegations stated that the suggestion to add the word "possession" merited further consideration and they were not in a position to comment upon it at the current stage.

9. A suggestion was also made to delete article 4 in its entirety. In that regard, it was stated that the draft convention should clarify its scope in an affirmative way. While some delegations expressed their support for the proposal and wished to consider it further, others found it unacceptable.

10. The view was also expressed that a definition of nuclear weapons in article 1 of the draft convention should include radioactive material and devices.

11. The only other outstanding issue relates to the proposal concerning the inclusion of dumping of toxic waste, which was raised again in the consultations. No discussion took place on this proposal.

12. In conclusion, it should be pointed out that views on the outstanding issues continue to be divergent. There were different interpretations of the prolongation of negotiations on the draft convention. In accordance with one view, continued consideration of this item without a clear prospect of finalizing the draft convention in the near future would send a wrong signal to the international community; it would demonstrate the inability of the United Nations to resolve differences on an important issue of common concern. According to the opposite viewpoint, new proposals had been made in the course of the consultations and negotiations should therefore continue with a view to arriving at a generally acceptable resolution of the outstanding issues. It is my view as coordinator that although there are legitimate concerns, the differences that still exist are not irreconcilable and we should build on the progress achieved thus far, bearing in mind our common objective of adopting the convention to suppress acts of nuclear terrorism.

13. Finally, I wish to thank delegations for expressing their views and for making proposals and suggestions both during the informal consultations and in informal bilateral contacts. I believe that these efforts have proved to be useful and I am grateful to all delegations for their support and the spirit of cooperation that prevailed during the consultations.

Annex III

Written amendments and proposals submitted at the eighth session of the Ad Hoc Committee in connection with the elaboration of a draft international convention for the suppression of acts of nuclear terrorism*

Author	Symbol	Subject
Bureau of the Ad Hoc Committee	A/AC.252/L.13 and Corr.1	Draft text of the convention
Syrian Arab Republic	A/AC.252/2004/WP.1	Article 4

1. Text of the draft international convention for the suppression of acts of nuclear terrorism prepared by the Bureau of the Ad Hoc Committee for discussion:

Draft international convention for the suppression of acts of nuclear terrorism

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations of 24 October 1995,[1]

Recognizing the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

Bearing in mind the Convention on the Physical Protection of Nuclear Material of 1980,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Recalling also the Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60 of 9 December 1994, in which, inter alia, the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

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* It is understood that all other amendments and proposals remain on the table for further consideration.

[1] General Assembly resolution 50/6 of 24 October 1995.

Noting that the Declaration also encouraged States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Recalling General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

Recalling also that, pursuant to General Assembly resolution 51/210, an ad hoc committee was established to elaborate, inter alia, an international convention for the suppression of acts of nuclear terrorism to supplement related existing international instruments,

Noting that acts of nuclear terrorism may result in the gravest consequences and may pose a threat to international peace and security,

Noting also that existing multilateral legal provisions do not adequately address those attacks,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism and for the prosecution and punishment of their perpetrators,

Noting that the activities of military forces of States are governed by rules of international law outside of the framework of this Convention and that the exclusion of certain actions from the coverage of this Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. "Radioactive material" means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment.

2. "Nuclear material" means plutonium, except that with isotopic concentration exceeding 80 per cent in plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore residue; or any material containing one or more of the foregoing;

Whereby "uranium enriched in the isotope 235 or 233" means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature.

3. "Nuclear facility" means:

(a) Any nuclear reactor, including reactors installed on vessels, vehicles, aircraft or space objects for use as an energy source in order to propel such vessels, vehicles, aircraft or space objects or for any other purpose;

(b) Any plant or conveyance being used for the production, storage, processing or transport of radioactive material.

4. "Device" means:

(a) Any nuclear explosive device; or

(b) Any radioactive material dispersal or radiation-emitting device which may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or the environment.

5. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

6. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security and persons acting in support of those armed forces who are under their formal command, control and responsibility.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

(a) Possesses radioactive material or makes or possesses a device:

(i) With the intent to cause death or serious bodily injury; or

(ii) With the intent to cause substantial damage to property or the environment;

(b) Uses in any way radioactive material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of radioactive material:

(i) With the intent to cause death or serious bodily injury; or

(ii) With the intent to cause substantial damage to property or the environment; or

(iii) With the intent to compel a natural or legal person, an international organization or a State to do or refrain from doing an act.

2. Any person also commits an offence if that person:

(a) Threatens, under circumstances which indicate the credibility of the threat, to commit an offence as set forth in subparagraph 1 (b) of the present article; or

(b) Demands unlawfully and intentionally radioactive material, a device or a nuclear facility by threat, under circumstances which indicate the credibility of the threat, or by use of force.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of the present article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(b) Organizes or directs others to commit an offence as set forth in paragraph 1, 2 or 3 of the present article; or

(c) In any other way contributes to the commission of one or more offences as set forth in paragraph 1, 2 or 3 of the present article by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 9, paragraph 1 or paragraph 2, to exercise jurisdiction, except that the provisions of articles 7, 12, 14, 15, 16 and 17 shall, as appropriate, apply in those cases.

Article 4

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

3. The provisions of paragraph 2 of the present article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

4. This Convention does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States.

Article 5

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its national law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of these offences.

Article 6

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature.

Article 7

1. States Parties shall cooperate by:

(a) Taking all practicable measures, including, if necessary, adapting their national law, to prevent and counter preparations in their respective territories for the commission within or outside their territories of the offences set forth in article 2, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or knowingly provide technical assistance or information or engage in the perpetration of those offences;

(b) Exchanging accurate and verified information in accordance with their national law and in the manner of and subject to the conditions specified herein, and coordinating administrative and other measures taken as appropriate to detect, prevent, suppress and investigate the offences set forth in article 2 and also in order to institute criminal proceedings against persons alleged to have committed those crimes. In particular, a State Party shall take appropriate measures in order to inform without delay the other States referred to in article 9 in respect of the commission of the offences set forth in article 2 as well as preparations to commit such offences about which it has learned, and also to inform, where appropriate, international organizations.

2. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

3. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

4. States Parties shall inform the Secretary-General of the United Nations of their competent authorities and liaison points responsible for sending and receiving the information referred to in the present article. The Secretary-General of the United Nations shall communicate such information regarding competent authorities and liaison points to all States Parties and the International Atomic Energy Agency. Such authorities and liaison points must be accessible on a continuous basis.

Article 8

For purposes of preventing offences under this Convention, States Parties shall make every effort to adopt appropriate measures to ensure the protection of radioactive material, taking into account relevant recommendations and functions of the International Atomic Energy Agency.

Article 9

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State; or

(b) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(c) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(d) The offence is committed in an attempt to compel that State to do or abstain from doing any act; or

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its national law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2 of the present article.

5. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its national law.

Article 10

1. Upon receiving information that an offence set forth in article 2 has been committed or is being committed in the territory of a State Party or that a person who has committed or who is alleged to have committed such an offence may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 of the present article are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 of the present article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 of the present article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 9, subparagraph 1 (c) or 2 (c), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 9, paragraphs 1 and 2 and, if it considers it advisable, any other interested States Parties, of the fact that that person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 of the present article shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 11

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 9 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the

purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its national law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1 of the present article.

Article 12

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international law of human rights.

Article 13

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 9, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 14

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their national law.

Article 15

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 16

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 17

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For the purposes of the present article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which

the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 18

1. Upon seizing or otherwise taking control of radioactive material, devices or nuclear facilities, following the commission of an offence set forth in article 2, the State Party in possession of it shall:

(a) Take steps to render harmless the radioactive material, device or nuclear facility;

(b) Ensure that any nuclear material is held in accordance with applicable International Atomic Energy Agency safeguards; and

(c) Have regard to physical protection recommendations and health and safety standards published by the International Atomic Energy Agency.

2. Upon the completion of any proceedings connected with an offence set forth in article 2, or sooner if required by international law, any radioactive material, device or nuclear facility shall be returned, after consultations (in particular, regarding modalities of return and storage) with the States Parties concerned to the State Party to which it belongs, to the State Party of which the natural or legal person owning such radioactive material, device or facility is a national or resident, or to the State Party from whose territory it was stolen or otherwise unlawfully obtained.

3(1) Where a State Party is prohibited by national or international law from returning or accepting such radioactive material, device or nuclear facility or where the States Parties concerned so agree, subject to paragraph 3(2) of the present article, the State Party in possession of the radioactive material, devices or nuclear facilities shall continue to take the steps described in paragraph 1 of the present article; such radioactive material, devices or nuclear facilities shall be used only for peaceful purposes.

3(2) Where it is not lawful for the State Party in possession of the radioactive material, devices or nuclear facilities to possess them, that State shall ensure that they are as soon as possible placed in the possession of a State for which such possession is lawful and which, where appropriate, has provided assurances consistent with the requirements of paragraph 1 of the present article in consultation

with that State, for the purpose of rendering it harmless; such radioactive material, devices or nuclear facilities shall be used only for peaceful purposes.

4. If the radioactive material, devices or nuclear facilities referred to in paragraphs 1 and 2 of the present article do not belong to any of the States Parties or to a national or resident of a State Party or was not stolen or otherwise unlawfully obtained from the territory of a State Party, or if no State is willing to receive such item pursuant to paragraph 3 of the present article, a separate decision concerning its disposition shall, subject to paragraph 3(2) of the present article, be taken after consultations between the States concerned and any relevant international organizations.

5. For the purposes of paragraphs 1, 2, 3 and 4 of the present article, the State Party in possession of the radioactive material, device or nuclear facility may request the assistance and cooperation of other States Parties, in particular the States Parties concerned, and any relevant international organizations, in particular the International Atomic Energy Agency. States Parties and the relevant international organizations are encouraged to provide assistance pursuant to this paragraph to the maximum extent possible.

6. The States Parties involved in the disposition or retention of the radioactive material, device or nuclear facility pursuant to the present article shall inform the Director General of the International Atomic Energy Agency of the manner in which such an item was disposed of or retained. The Director General of the International Atomic Energy Agency shall transmit the information to the other States Parties.

7. In the event of any dissemination in connection with an offence set forth in article 2, nothing in the present article shall affect in any way the rules of international law governing liability for nuclear damage, or other rules of international law.

Article 19

The State Party where the alleged offender is prosecuted shall, in accordance with its national law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 20

States Parties shall conduct consultations with one another directly or through the Secretary-General of the United Nations, with the assistance of international organizations as necessary, to ensure effective implementation of this Convention.

Article 21

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 22

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which

are exclusively reserved for the authorities of that other State Party by its national law.

Article 23

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of the present article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 24

1. This Convention shall be open for signature by all States from _____ until _____ at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 26

1. A State Party may propose an amendment to this Convention. The proposed amendment shall be submitted to the Depositary, who circulates it immediately to all States Parties.

2. If the majority of the States Parties request the Depositary to convene a Conference to consider the proposed amendments, the Depositary shall invite all

States Parties to attend such a Conference to begin not sooner than three months after the invitations are issued.

3. The Conference shall make every effort to ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted by a two-thirds majority of all States Parties. Any amendment adopted at the Conference shall be promptly circulated by the Depositary to all States Parties.

4. The amendment adopted pursuant to paragraph 3 of the present article shall enter into force for each State Party that deposits its instrument of ratification, acceptance, accession or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their relevant instrument. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day after the date on which that State deposits its relevant instrument.

Article 27

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 28

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on _____.

2. Proposal submitted by the Syrian Arab Republic:

Amendment to article 4

Delete paragraphs 2 and 3.

A59/37